

JUN 02 2011

**Board of Vocational Nursing  
and Psychiatric Technicians**

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2010-684

**KAMBRIA KELLEY JACKSON  
7552 Gibraltar Street, Apt. 104  
Carlsbad, CA 92009**

**A C C U S A T I O N**

**Vocational Nurse License No. VN 246725**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about December 22, 2009, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 246725 to Kambria Kelley Jackson (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Board may renew an expired license at any time within four years after the expiration.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related

1 to the qualifications, functions, and duties of the licensee in question, the  
2 record of conviction of the crime shall be conclusive evidence of the fact  
3 that the conviction occurred, but only of that fact, and the board

4 may inquire into the circumstances surrounding the commission of the crime  
5 in order to fix the degree of discipline or to determine if the conviction is  
6 substantially related to the qualifications, functions, and duties of the  
7 licensee in question.

8 As used in this section, "license" includes "certificate," "permit,"  
9 "authority," and "registration."

10 9. Section 2878 of the Code states:

11 The Board may suspend or revoke a license issued under this chapter  
12 [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)]  
13 for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the  
15 following:

16 . . . .

17 (f) Conviction of a crime substantially related to the qualifications,  
18 functions, and duties of a licensed vocational nurse, in which event the  
19 record of the conviction shall be conclusive evidence of the conviction.

20 . . . .

21 10. Section 2878.5 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the  
23 meaning of this chapter [the Vocational Nursing Practice Act] it is  
24 unprofessional conduct for a person licensed under this chapter to do any of  
25 the following:

26 . . . .

27 (b) Use any controlled substance as defined in Division 10 of the  
28 Health and Safety Code, or any dangerous drug as defined in Section 4022,  
or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
himself or herself, any other person, or the public, or to the extent that the  
use impairs his or her ability to conduct with safety to the public the practice  
authorized by his or her license.

(c) Be convicted of a criminal offense involving possession of any  
narcotic or dangerous drug, or the prescription, consumption, or  
self-administration of any of the substances described in subdivisions (a) and  
(b) of this section, in which event the record of the conviction is conclusive  
evidence thereof.

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11. Section 2878.6 of the Code states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a licensed vocational nurse is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

### REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2521, states:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the

functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

(b) A conviction of practicing medicine without a license in violation of Chapter 5 of Division 2 of the Business and Professions Code.

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

(d) Aiding or assisting, or agreeing to aid or assist any person or persons, whether a licensed physician or not, in the performance of or arranging for a violation of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and Professions Code.

(e) Conviction of a crime involving fiscal dishonesty.

(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

13. California Code of Regulations, Title 16, section 2522 states:

When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license

on the ground that a licensee has been convicted of a crime, or c) a petition for reinstatement of a license under Section 2787.7 of the Business and Professions Code, the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.
- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and/or variety of current violations.
- (8) Mitigation evidence.
- (9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- (10) Time passed since the act(s) or offense(s) occurred.
- (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.
- (12) Cooperation with the Board and other law enforcement or regulatory agencies.
- (13) Other rehabilitation evidence.

#### **COST RECOVERY**

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(November 9, 2010 Conviction for Driving Under the Influence on August 28, 2010)**

3 15. Respondent has subjected her license to disciplinary action under sections 490 and  
4 2878, subdivision (f) of the Code in that Respondent was convicted of crimes that are  
5 substantially related to the qualifications, functions, and duties of a licensed vocational nurse.  
6 The circumstances are as follows:

7 a. On or about November 9, 2010, in a criminal proceeding entitled *The People of*  
8 *the State of California v. Kambria Kelley Jackson*, in San Diego Superior Court, case number  
9 CN283070, Respondent was convicted on her plea of guilty of violating Vehicle Code section  
10 23152, subdivision (a), driving under the influence of alcohol, a misdemeanor. Respondent's  
11 conviction was her second conviction for DUI within 5 years, as outlined in paragraphs 15 and  
12 18.

13 b. As a result of the conviction, Respondent was sentenced to five years  
14 summary probation, ordered to spend four days in custody, and ordered to complete 26 days of  
15 community service. In addition, Respondent was ordered to attend and complete a multiple  
16 offender DUI program, and pay \$2,453 dollars in fines.

17 c. The facts that lead to the conviction are that on or about August 28, 2010,  
18 Respondent drove her vehicle into a parked car and a tree. Respondent had attended a social  
19 function where she became intoxicated. Sometime after 10:00 p.m. Respondent left the social  
20 gathering in such a state of intoxication she hit a parked car and continued driving down the road  
21 until she hit a large tree that disabled her vehicle. Respondent was found at the scene of the  
22 accident by the San Diego County Sheriff's Department. Respondent told Sheriffs Deputies that  
23 she had too much to drink and that they should arrest her. Respondent failed a series of field  
24 sobriety tests and was arrested on suspicion of DUI. After her arrest, Respondent was found to  
25 have a blood alcohol level of 0.26%, more than three times the legal limit of .08%.

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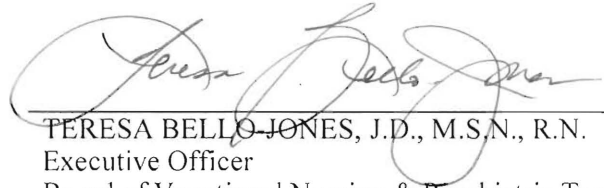
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1           2.     Ordering Kambria Kelley Jackson to pay the Board of Vocational Nursing and  
2     Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
3     pursuant to Business and Professions Code section 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.  
5  
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7     DATED: June 22, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing & Psychiatric Technicians  
State of California  
*Complainant*

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